

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

UNITED STATES OF AMERICA,)
)
)
Plaintiff,)
)
vs.)
)
ANDREW KIRCHHOFER,)
)
)
Defendant.)

CRIMINAL NO.

18-CR-30036-MJR

STIPULATION OF FACTS

Comes now Donald S. Boyce, United States Attorney for the Southern District of Illinois through Norman R. Smith, Assistant U.S. Attorney for this District and herewith enter into the following Stipulation of Facts with the defendant, Andrew Kirchhoefer (hereinafter "Defendant") with the advice and consent of Justin K. Gelfand, counsel for the Defendant, as follows:

1. **ANDREW KIRCHHOFER** held himself out as a general contractor and operated under the business names of Liberty International Operations Group, Inc. and Gateway Constructions Solutions, Inc. that entered into contracts to do remodeling construction jobs in Missouri and Illinois.
2. **ANDREW KIRCHHOFER** would enter into home remodeling contracts with home owners and request large up front down payments. Subsequently little or no work was done on many of the projects.
3. From in or around October 2014, and continuing through in or around February of 2016, in St. Clair County, within the Southern District of Illinois, and elsewhere, **ANDREW KIRCHHOFER**, defendant, did devise a scheme to defraud; to which these payments were electronic wire transmissions through and involving interstate commerce.

4. On June 8, 2015, **ANDREW KIRCHHOEFER**, as President of Gateway Construction Solutions (“GCS”), signed a remodel estimate/agreement for remodeling work for “E.L.” at his residence in Collinsville, Illinois. The agreement provided for a total cost for the remodeling of \$33,221.40 and a down payment of \$13,288.56. In furtherance of the remodel estimate/agreement a construction escrow agreement was signed in conjunction with a title company cash flow form. The escrow agreement provided that **ANDREW KIRCHHOEFER** *was not to request any portion of his profit without “E.L.’s” consent until all cost of construction or improvements have been paid in full and the improvements have been accepted by the owner.* On June 15, 2015, the title company issued two down payment checks to GCS totaling \$13,288.56, which were deposited by **ANDREW KIRCHHOEFER** for remodeling work pursuant to the remodeling agreement and the cash flow form:

To: GCS					
Vchr	Invoice #	Dated	Code	Description	Disbursement
302200	deposit	06/15/15	0001	PLANS/PERMITS	\$664.43
302200	deposit	06/15/15	0005	DEMO	\$830.50
302200	deposit	06/15/15	0013	LUMBER & MISC	\$996.64
302200	deposit	06/15/15	0016	CARPENTRY	\$996.64
302200	deposit	06/15/15	0019	WINDOWS	\$265.77
302200	deposit	06/15/15	0024	HVAC	\$332.22
302200	deposit	06/15/15	0026	ELECTRIC	\$332.22
302200	deposit	06/15/15	0028	PLUMBING	\$332.22
302200	deposit	06/15/15	0030	DRYWALL	\$465.10
302200	deposit	06/15/15	0032	PAINTING	\$465.10
Payee: Detach this statement before depositing				Questions? Call 314-542-9507	Total for # 13347 :
					\$5,680.84

To: GCS					
Vchr	Invoice #	Dated	Code	Description	Disbursement
302201	deposit	06/15/15	0034	CABINETS	\$1,262.41
302201	deposit	06/15/15	0041	EXT DOORS	\$332.54
302201	deposit	06/15/15	0046	LIGHT FIXTURES	\$332.54
302201	deposit	06/15/15	0058	OVERHEAD & SUPERVISION	\$1,328.86
302201	deposit	06/15/15	0059	GCS PROFIT	\$4,351.37
Payee: Detach this statement before depositing				Questions? Call 314-542-9507	Total for # 13348 :
					\$7,607.72

5. Floor plans were completed by a subcontractor who was never paid by **ANDREW KIRCHHOFER** and permits were obtained. No other work was ever done and **ANDREW KIRCHHOFER** kept the entire down payment.

6. On October 2, 2015, "M.J." and "D.J." entered into a home remodeling agreement with Gateway Construction Solutions for an addition to their home in Alton, Illinois. The agreement provided for a total cost for the construction project of remodeling of \$67,745 and a down payment of \$27,098. In furtherance of the agreement a disbursing agreement was signed for disbursement of the funds with Continental Title of Missouri acting as the escrow agent. The disbursing agreement provided that: "*Whereas, the funds ("the funds") are to be used for construction work on the property and the payment of labor and materials used therein ("the work")*" On October 9, 2015 a Gateway Construction Solutions invoice was sent to the title company in support of a request for an escrow withdrawal of a down payment amount of \$22,552.02:

Category	Amount
2. Plans/ permits/ surveys	\$1,450.39
3. Temporary utilities	\$260.00
5. Demolition	\$200.00
6. Excavation/Grading	\$200.00
7. Rock	\$80.00
8. Footings/foundation	\$1,000.00
15. Rough Carpentry	\$2,200.00
16. Finish Carpentry	\$1,440.00
17. Roofing	\$1,000.00
18. Insulation	\$300.00
19. Windows/Skylights	\$800.00
20. Siding/Soffit/Fascia	\$1,060.00
21. Gutters/Downspouts	\$200.00
22. Masonry	\$1,000.00
23. Fireplace	\$0.00
24. HVAC	\$500.00
25. Rough Electric	\$520.00
26. Finish Electric	\$480.00
27. Rough Plumbing	\$360.00
28. Finish Plumbing	\$1,040.00
29. Stairs	\$0.00
30. Drywall	\$800.00
46. Light fixtures	\$200.00
53. Clean Up	\$320.00
54. Overhead/Supervisor	\$11,647.61

7. Architectural services and drafting work were done by subcontractors but no other work was ever done and **ANDREW KIRCHHOFER** kept the entire down payment.

8. On September 14, 2015, M.S. and J.S. entered into a contract with Gateway Construction Solutions for work totaling \$54,528.17. At **KIRCHHOFER's** request, on September 16, 2015, M.S. sent a cashier's check in the amount of \$21,811.31 to Continental Title of Missouri. **KIRCHHOFER** then made an escrow draw of \$21,011.31 with a breakdown of how the money was to be used for labor and materials.

<i>Draw#</i>	<i>Work/Material</i>	<i>Amount</i>
1	2-Plans/Permits/Surveys	\$1,100.00
1	11-Concrete Flatwork	\$2,500.00
1	16-Finish Carpentry	\$500.00
1	20-Siding/Soffit/Fascia	\$2,600.00
1	21-Gutters/Downspouts	\$440.00
1	22-Masonry	\$2,740.00
1	26-Finish Electric	\$200.00
1	32-Painting-Int & Ext	\$600.00
1	41-Exterior Doors	\$850.00
1	54-Misc. Rentals	\$625.00
1	58-Overhead/Supervision	\$8,856.31
<i>Payment Total:</i>		\$21,011.31

No materials were purchased and the funds were utilized by **KIRCHHOFER** for other purposes. No physical work was ever done and **ANDREW KIRCHHOFER** kept the entire down payment.

9. In May of 2015, Places For People, Inc. entered into a contract with **ANDREW KIRCHHOFER** and Gateway Construction Solutions for the replacement of two decks on HUD properties for a total cost of \$37,362. In

furtherance of the agreement a disbursing agreement was signed for disbursement of the funds with Old Republic Title Company acting as the escrow agent. On or about May 29, 2015, **KIRCHHOFER** made an escrow draw in the amount of \$14,544.80 for materials for the decking system.

4336 CHOUTEAU AVE	PLACES FOR PEOPLE	GATEWAY CONSTRUCTION SOLUTIONS 1033 CORPORATE SQUARE DRIVE ST LOUIS, MO 63132			
To: GCS					
Vchr	Invoice #	Dated	Code	Description	Disbursement
300101	NA	05/29/15	0001	CENTER DECKING SYSTEM	\$7,272.40
300101	NA	05/29/15	0002	RIGHT DECKING SYSTEM	\$7,272.40

No materials were purchased and the funds were utilized by **KIRCHHOFER** for other purposes. No physical work was ever done and **ANDREW KIRCHHOFER** kept the entire down payment.

10. In July of 2015, E.D. and his wife S.D. entered into a contract with **ANDREW KIRCHHOFER** and Gateway Construction Solutions for the replacement of a roof on their home that had sustained hail damage for a total amount of \$35,690.02. In furtherance of the agreement a disbursing agreement was signed for disbursement of the funds with Continental Title of Missouri acting as the escrow agent. . The disbursing agreement provided that: "*Whereas, the funds ("the funds") are to be used for construction work on the property and the payment of labor and materials used therein ("the work")*" On September 2, 2015, **KIRCHHOFER** made an escrow draw in the amount of \$11,407 with \$10,687 net going to Gateway Construction Solutions. Apart from draft plans being prepared, no materials were purchased and not labor or physical work was done and **ANDREW KIRCHHOFER** kept the entire down payment.

THE WIRE COMMUNICATION

11. On or about June 12, 2015, in Madison County within the Southern District of Illinois, and elsewhere,

ANDREW KIRCHHOEFER,

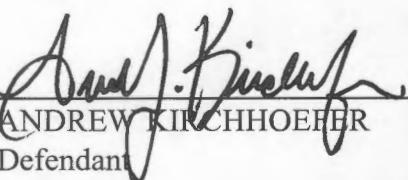
the defendant, for purposes of executing, and attempting to execute the above-described scheme and artifice to defraud and deprive, knowingly caused to be transmitted a wire communication in interstate commerce which was foreseeable in the ordinary course of business, a wire transfer of \$33,221.40 of funds from E.L.'s account at GCS Credit Union in Granite City, Illinois to Old Republic Title Company of Saint Louis at Enterprise Bank in St. Louis, Missouri in furtherance of the remodeling agreement with **ANDREW KIRCHHOEFER**.

12. During the calendar year 2015, in St. Clair County, within the Southern District of Illinois, and elsewhere, **ANDREW KIRCHHOEFER**, the defendant, was the President and registered agent of Gateway Construction Solutions, Inc., a corporation not expressly exempt from tax, with its principal place of business in St. Clair County, Illinois. He therefore was required by law, after the close of the calendar year 2015 and on or before March 15, 2016 to make an income tax return, for and on behalf of the corporation, to the Internal Revenue Service Center, at Kansas City, Missouri, or to the person assigned to receive returns at the local office of the Internal Revenue Service at Kansas City, Missouri, stating specifically the items of the corporation's gross income and the deductions and credits allowed by law. Well knowing and believing all of the foregoing, he did

willfully fail, on or about March 15, 2016, in the Southern District of Illinois and elsewhere, to make an income tax return at the time required by law.

13. No matters are in dispute.

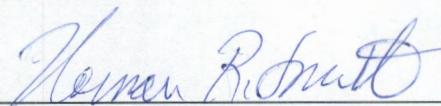
SO STIPULATED:


ANDREW KIRCHHOFER
Defendant


JUSTIN K. GELFAND
Attorney for Defendant

Date: 3/08/18

DONALD S. BOYCE
United States Attorney


NORMAN R. SMITH
Assistant United States Attorney

Date: 3/08/18